

**DEPARTMENT OF EDUCATION
SPECIAL EDUCATION PROGRAMS**

**Human Services Agency – ATCO
Accountability Review - Focus Monitoring Report 2007-2008**

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Dates of On Site Visit: November 14, 2007

Date of Report: December 14, 2007

4 month update due: April 14, 2008

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Program monitoring and evaluation.

In conjunction with its general supervisory responsibility under the Individuals with Disabilities Education Act, Part B, Special Education Programs (SEP) of the Office of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations. The department shall ensure:

(1) That the requirements of this article are carried out;

(2) That each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior:

(a) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and

(b) Meets the educational standards of the state education agency, including the requirements of this article; and

(3) In carrying out this article with respect to homeless children, the requirements of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met. (Reference- ARSD 24:05:20:18.)

State monitoring--Quantifiable indicators and priority areas.

The department shall monitor school districts using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

(1) Provision of Free Appropriate Public Education (FAPE) in the least restrictive environment;

(2) Department exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in this article and article 24:14; and

(3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. (Reference-ARSD 24:05:20:18:02.)

State enforcement -- Determinations.

On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA...

Based upon the information obtained through monitoring visits, and any other public information made available, Special Education Programs of the Office of Educational Services and Support determines if the agency, institution, or organization responsible for carrying out special education programs in the state:

- Meets the requirements and purposes of Part B of the Act;
- Needs assistance in implementing the requirements of Part B of the Act;
- Needs intervention in implementing the requirements of Part B of the Act; or
- Needs substantial intervention in implementing the requirements of Part B of the Act. (Reference-ARSD 24:05:20:23.04.)

Deficiency correction procedures.

The department shall require local education agencies to correct deficiencies in program operations that are identified through monitoring as soon as possible, but not later than one year from written identification of the deficiency. The department shall order agencies to take corrective actions and to submit a plan for achieving and documenting full compliance. (Reference-ARAD 24:05:20:20.)

1. GENERAL SUPERVISION

ARSD - 24:05:25:06. Reevaluations.

A reevaluation conducted under this section may occur not more than once a year, unless the parent and district agree otherwise, and must occur at least once every three years, unless the parent and the district agree that a reevaluation is unnecessary.

ARSD - 24:05:25:04. Evaluation procedures.

School districts shall ensure, at a minimum, that evaluation procedures include the following:

(1) Assessments and other evaluation materials are provided and administered in the child's native language or by another mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer. In addition, assessments and other evaluation materials: (a) Are used for the purposes for which the assessments or measures are valid and reliable; and (b) Are

administered by trained and knowledgeable personnel in conformance with the instructions provided by their producer;

(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;

(3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment accurately reflects the child's aptitude or achievement level or whatever other factors the assessment purports to measure, rather than the child's impaired sensory, manual, or speaking skills except where those skills are the factors which the assessment purports to measure;

(4) No single measure or assessment is used as the sole criterion for determining eligibility or an appropriate educational program for a child;

(5) A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child, including information provided by the parents, that may assist in determining: (a) Whether the child is a child with a disability; and (b) The content of the child's IEP, including information related to enabling the child: To be involved in and progress in the general education curriculum; or For a preschool child, to participate in appropriate activities;

(6) Technically sound instruments, assessment tools, and strategies are used that: (a) May assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors; and (b) Provide relevant information that directly assists persons in determining the educational needs of the child;

(7) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities; and

(8) The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

ARSD - 24:05:24.01:11. Cognitive disability defined.

Cognitive disability is significantly below-average general intellectual functioning that exists concurrently with deficits in adaptive behavior skills, that is generally manifested before age eighteen, and that adversely affects a student's educational performance. The required evaluative components for identifying a student with a cognitive disability are as follows:

(1) General intellectual functioning two standard deviations or more below the mean as determined by the full scale score on an individual cognitive evaluation, plus or minus standard error of measurement, as determined in accordance with § 24:05:25:04; and

(2) Exhibits deficits in adaptive behavior and academic or preacademic skills as determined by an individual evaluation in accordance with § 24:05:25:04.

ARSD - 24:05:24.01:13. Orthopedic impairment defined.

Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and

impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). There must be evidence of the following:

(1) That the student's impaired motor functioning significantly interferes with educational performance; (2) That the student exhibits deficits in muscular or neuromuscular functioning that significantly limit the student's ability to move about, sit, or manipulate materials required for learning;

(3) That the student's bone, joint, or muscle problems affect ambulation, posture, or gross and fine motor skills; and

(4) That current medical data by a qualified medical evaluator describes and confirms an orthopedic impairment.

Finding:

A student file review completed by the monitoring team indicated that a reevaluation was completed July 2007. The disabling condition of Multiple Disabilities (Cognitive and Orthopedic) reported on the child count was not substantiated by documentation within the file. The student's 2007 reevaluation did not support the criteria for Cognitive and Orthopedic disabilities. An interview with the special education teacher indicated the agency was not aware of reevaluation policies and procedures for special education eligibility. When the student's school district was contacted by the monitoring team, the Special Education Director stated the district was not aware that a three year reevaluation had been completed. The district report the student's reevaluation was due in January 2008.

1. Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: The agency must reconvene this student's IEP team as soon as possible to determine what evaluations are needed in the suspected disabilities to determine eligibility for special education or special education and related services. In addition, the team must determine who will administer the evaluations and summarize the information into a written report. Data Collection: The agency will submit a summary of the team's meeting.	As soon as possible	ATCO staff	Completed 3/17/08

4 month Progress Report: The team decided on 11-19-07 that the Watertown School District would obtain parental consent for evaluation and complete the 3 year comprehensive evaluation, approved by Sandi Jungers, Special Education Director. Marie Jongblood called 12-13-07 and asked me to mail a copy of the Red Brigrance Diagnostic Inventory of Essential Skills and his Transition Questionnaire, which I had completed, to Melissa Osborne. Sandi emailed me 12-20-07 and said the school

psychologist would do the testing after Christmas, and when all reports are put together, they will let me know so we can set a date and convene as a team and develop the IEP.

8 month Progress Report: IEP team met 3/17/08. The team decided that special education services were needed. A new IEP was written 3/17/08.

12 month Progress Report:

2. Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: The agency will review and revise policy/procedures in their comprehensive plan for special education, indicating specifically who is responsible for reevaluation, developing the IEP and meeting the special education requirements for individuals under the age of 21 who are receiving services at ATCO. Data Collection: The agency will submit a copy of the revised policy/procedure (comprehensive plan for special education) to SEP.	March 31, 2008	ATCO staff	Completed 12/8/ 2008

4 month Progress Report: ATCO staff will attend the May 28, 2008 workshop in Pierre and then revise Comprehensive Plan after the training.

8 month Progress Report: Jeff Lindahl attended the workshop on 5/28/08 in Pierre for ATC's. Plan was completed and submitted, waiting for response from the State.

12 month Progress Report: **ATCO's Comprehensive Plan was submitted and approved.**

2. GENERAL SUPERVISION

ARSD - 24:05:25:06.01. Consent for reevaluation.

Before conducting a reevaluation of an eligible child, parental consent is required, unless:

- (1) The school district can demonstrate that it has taken reasonable measures to obtain consent, and the child's parent has failed to respond; and
- (2) The school district documents its efforts to obtain consent by using the procedures consistent with § 24:05:25:17.

ARSD - 24:05:30:05. Content of notice.

The notice must include the following:

- (1) A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the IEP team considered and the reasons why those options were rejected;
- (2) A description of each evaluation procedure, assessment, record, or report that the district uses as a basis for the proposal or refusal;

- (3) A description of any other factors which are relevant to the district's proposal or refusal;
- (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this article and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- (5) Sources for parents to contact to obtain assistance in understanding the provisions of this article.

Finding: Through student file reviews, the monitoring team determined that prior notice consent for reevaluations were not found. An interview with the special education teacher confirmed that the agency was not aware that consent for reevaluation was needed. The agency is also doing annual functional assessment and not sending prior notice nor obtaining consent from the parents/guardian. Since the initial meeting with the agency in October 2007 a prior notice consent form has been developed.

1. Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: The agency will review and revise policy/procedures in their comprehensive plan for special education, indicating specifically when prior notice consent is needed to meet the special education requirements for individuals under the age of 21 who are receiving services at ATCO. Data Collection: The agency will submit a copy of the revised policy/procedure (comprehensive plan for special education) to SEP.	March 31, 2008	ATCO. staff	Completed 12/8/ 2008

4 month Progress Report: ATCO staff will attend the May 28, 2008 workshop in Pierre and then revise Comprehensive Plan after the training.

8 month Progress Report: Jeff Lindahl attended the workshop in Pierre on 5/28/08. Plan has been completed and submitted, waiting for response from the State.

12 month Progress Report: **ATCO's Comprehensive Plan was submitted and approved.**

2. Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: The special education director will ensure parental consent is obtained for all evaluations administrated. Data Collection: The special education	March 31, 2008	ATCO. staff	Completed 12/8/ 2008

director will spot check two student files that have reevaluation assessment, to verify parental consent for all evaluations administrated. Total number of files reviewed along with findings will be reported to SEP			
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4 month Progress Report: Two student's files were reviewed and parental consent was obtained for all evaluations given.

8 month Progress Report: Two student files were reviewed and parental consent was obtained for all evaluations given.

12 month Progress Report: Two student files were reviewed and parental consent was obtained for all evaluations given.

3. GENERAL SUPERVISION

ARSD - 24:05:27:10. Individual educational programs for students placed in private schools.

Before a resident school district places or refers a child in need of special education or special education and related services to a private school, facility, or a contracting district, the district shall initiate and conduct an IEP team meeting to develop an individual educational program for the child in accordance with district procedures.

The district shall ensure that a representative of the private school or facility attends the IEP team meeting. If the representative of the private school or facility cannot attend the IEP team meeting, the district shall use other methods to ensure participation, including individual or conference telephone calls.

After a child in need of special education or special education and related services enters a private school or facility, any meetings to review and revise the child's individual educational program may be initiated and conducted by the private school or facility at the discretion of the district.

If the private school or facility initiates and conducts these meetings, the district shall ensure that the parents and a district representative are involved in any decision about the child's individual educational program and agree to any proposed changes in the program before those changes are implemented.

Even if a private school or facility implements a child's individual educational program, responsibility for compliance with this section remains with the school district and the division.

ARSD - 24:05:25:04. Evaluation procedures.

School districts shall ensure, at a minimum, that evaluation procedures include the following:

(5) A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child, including information provided by the parents, that may assist in determining: (a) Whether the child is a child with a disability; and (b) The content of the child's IEP, including information

related to enabling the child: To be involved in and progress in the general education curriculum; or For a preschool child, to participate in appropriate activities;

ARSD - 24:05:27:01.02. Development, review, and revision of individualized education program.

In developing, reviewing, and revising each student's individualized education program, the team shall consider the strengths of the student and the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, the academic, developmental, and functional needs of the student.

ARSD - 24:05:27:01.03. Content of individualized education program.

Each student's individualized education program shall include:

- (1) A statement of the student's present levels of academic achievement and functional performance, including: (a) How the student's disability affects the student's involvement and progress in the general education curriculum.
- (2) A statement of measurable annual goals, including academic and functional goals, designed to: (a) Meet the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and (b) Meet each of the student's other educational needs that result from the student's disability.

Finding:

Through student file reviews, the monitoring team determined information was not individualized for students. The Brigance Diagnostic Inventory of Essential Skills Assessment and Student Questionnaire – a guide to Transition Planning is given to all students. Student's Present Levels of Academic Achievement and Functional Performance (PLAAFP) consisted of a list of strengths in reading and math; however, no skill-specific weaknesses/needs were listed for students. Information found in student files was identical. Examples of a student's weaknesses/needs in reading and math were: " needs to continue working on comprehending what he/she reads independently and orally. He/She needs to continue using context clues and prior knowledge to understand unfamiliar texts." " needs to continue applying basic math operation to real life situations". The PLAAFP affects of the disability statement all read: "Due to functioning level he/she does not follow an academic program. Student's program consists of functional academic, independent living skills, social skills, vocational, Project skills and related services". File reviews indicated a need to improve functional assessments to acquire the skill-based information and individual needs to develop present levels of performance for students eligible for special education services. In addition, the student's goals were not skill-based, nor were the goals individualized.

Student IEPs had transition activities documented; however, course of study was missing and annual goals did not directly link back to post-secondary goals.

1. Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
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used to verify compliance.			
Activity/Procedure: The agency will review and revise the IEP document to meet compliance for students eligible for special education services Data Collection: The agency will submit a copy of the revised IEP to SEP.	March 31, 2008	ATCO staff	Completed Nov. 19, 2007

4 month Progress Report: Began using updated IEP form immediately, November 19, 2007.

8 month Progress Report:

12 month Progress Report:

2. Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: After the agency has adopted an IEP document which reflects the changes from IDEA 2004, an onsite visit from their regional Transition Liaison will be scheduled to provide transition technical assistance. Functional assessments that may be used will be an item of discussion. Data Collection: The agency will submit the date, agenda items and who was in attendance to SEP.	March 31, 2008	ATCO staff	Completed January 23, 2008

4 month Progress Report: Cindy Kirschman provided transition training on December 19, 2007 and again January 23, 2008. Donna Huber provided training on functional assessments on January 23, 2008. Carol Schutt, Special Education Teacher, attended.

8 month Progress Report: No additional training this quarter

12 month Progress Report:

3. Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: The agency will have comprehensive evaluation and IEP for eligible special education student under the age of 21, which is individualized to the student's needs. The student's Present levels of Academic Achievement and Functional Performance (PLAAFP) will include the student's strength(s) and needs in the specific skill area(s), and how the disability affects the	March 31, 2008	ATCO staff	Completed 12/8/ 2008

<p>student's involvement and progress in the general curriculum. The IEP will also include skill based goals.</p> <p>Data Collection: The agency special education director will spot-check two student IEPs for PLAAP and goal content requirements. Total number of files reviewed along with findings will be reported to SEP.</p>			
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4 month Progress Report: Two student files were reviewed and both files had strengths and needs identified in the PLAAFP. In both files those needs identified were present in educational goals and objectives.

8 month Progress Report: Two student files were reviewed and both files had strengths and needs identified in the PLAAFP. In both files those needs were present in educational goals and objectives.

12 month Progress Report: Two student files were reviewed and both files had strengths and needs identified in the PLAAFP. In both files those needs were present in educational goals and objectives.